

JUL 9 2003

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL CRAIG DICKMAN,

Defendant - Appellant.

No. 02-50607

D.C. No. CR-99-03602-TJW

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Thomas J. Whelan, District Judge, Presiding

Submitted April 30, 2003**

Before: SKOPIL, FERGUSON, and BOOCHEVER, Circuit Judges.

Michael Craig Dickman pled guilty to six bank robberies. He appeals the district court's denial of his postconviction motion under Federal Rule of Civil

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Procedure 41(g) (then Rule 41(e)) to return a metal box containing \$31, 699 in cash. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The government overcame the presumption that Dickman was entitled to the return of property no longer needed as evidence by demonstrating that the cash in the box was interspersed with bait bills from four of the robberies, and was therefore money stolen from the banks. See United States v. Fitzen, 80 F.3d 387, 388 (9th Cir. 1996) (government may overcome presumption of return by demonstrating “cognizable claim” of ownership other than defendant’s). The government also presented evidence that Dickman had directed his sister to remove the box from his residence immediately after his arrest. Dickman argues only that he kept legitimate income in cash at his residence, but does not explain the presence of the bait bills in the metal box.

AFFIRMED.